

Internal Revenue Service  
District Director

Department of the Treasury  
P.O. Box 2508  
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:

Employer Identification Number:

Date: NOV 14 1996

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the Office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

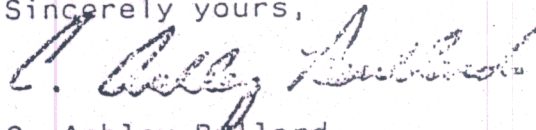
[REDACTED]  
[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b) (2) of the Internal Revenue code provides in part that:

A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,



C. Ashley Bullard  
District Director

Enclosures: 3



ENCLOSURE I  
REASONS FOR PROPOSED DENIAL OF EXEMPT STATUS

[REDACTED]  
[REDACTED]

The organization was incorporated in [REDACTED] The purposes provided in your original Articles of Incorporation, Article II are stated as follows:

Purpose of Corporation

For research, educational and economic development (in the form of a business league for such development, high tech and growth activities).

Objective of the Corporate Purpose

Scientific research testing educational funding for specific scholarships and or grants, and economic funding for venture capital, existing businesses and real estate.

General Nature of the Corporate Purpose

The use or support of such research and educational activities through think tank or facility that would be receptive in a pragmatic or practical sense so the research will benefit the corporate/private sector (which is high tech and/or growth oriented) and the educational funding, grant and/or scholarships would benefit the corporate/private sector with cooperation with local universities and educational facilities to turn out experience that is necessary for such high tech and growth. The existence of such operations for the corporate/private will support intrinsic growth, create an environment where innovative growth is supported and focus on the support of cognitive growth. Such economic funding for the development of high tech and growth would also be in a pragmatic or practical sense for the benefit of the corporate/private sector to include such spectrum of high tech and growth in the forms of startups, new ventures, expansions, developments, project funding, turn arounds, restructuring, and any entity or property related to high tech or growth by its nature, intrinsicity, value, capacity (estimated potential), income, amenities, location, personnel, and/or relationships.

At our request you amended your Articles of Incorporation to replace Article II with the following:

Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

No part of the net earnings of the organization shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the organization shall be authorized and empowered to pay reasonable compensation for

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REASONS FOR PROPOSED DENIAL OF EXEMPT STATUS  
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[REDACTED]  
[REDACTED]

services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause hereof. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this document, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (b) by an organization, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code.

The application indicates you were formed to provide funds to individuals or corporations that cannot get funds from banks or investors. In addition, you state activities will start when IRS approves exemption under section 501(c)(3) of the Code.

Your letter dated September 29, 1995 indicates the main purpose of your organization is "to obtain grants so we can help corporations and individuals secure loans, and help the business community."

We wrote to you November 9, 1995, December 20, 1995, January 9, 1996 and January 24, 1996. Each letter requested additional information pertaining to your proposed activities. Your responses did not fully address the questions and did not adequately describe your activities. The following examples illustrate why the data submitted was insufficient.

Example 1

Our letter dated November 9, 1995, item 8, requested you describe in detail the criteria you will use in selecting recipients.

Your response dated December 15, 1995:

"Selecting recipients through networking...such recipients will be in the forms of funding as described in the Articles of the Corporation, the general nature of the business, such funding (debt with a receipt of a percentage of income). Low risk and high yield is the preferred criteria for acceptability but depending upon favorable profitability, adequate collateral, adequate liquidity, quality management team, a quality product or service, a feasible market and marketing plan and a minimal amount of risk will determine how feasible a recipient will be for funding. Such criteria will be based on industry, market and producer service



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REASONS FOR PROPOSED DENIAL OF EXEMPT STATUS  
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[REDACTED]  
[REDACTED]

comparable standard for such product or such debt, equity and participating funding for high tech and growth from startup to expansions as described in the Articles of Incorporation, the general nature of the business."

This response was too broad and did not provide a detailed description of how recipients would be selected.

Example 2

We questioned how the interest rate on loans would be determined. You stated that interest is the same as banks charge which is prime rate plus points or a range minimum and maximum above Treasury bills. Debt length will be determined by the usefull life of the entity or assets. Our letter dated December 20, 1995 informed you that providing low risk loans at market rates is not generally an exempt activity. Accordingly, you revised your statement. Your response dated December 26, 1995 indicates interest will be charged at two points below prime rate.

Example 3

Insufficient financial data was submitted. Your letter dated January 17, 1996 indicates that had you been approved in 1995, you could have applied for grants, and your receipts no doubt could have been in excess of \$[REDACTED]. Your letter dated February 3, 1996 states receipts will not be above \$[REDACTED] in 1996. In 1997, you indicate you may receive income in excess of \$[REDACTED] if you receive a grant. Before exemption may be considered we must be provided proposed budgets showing all expected revenues and expenses.

The financial data provided has varied with each response and it appears you do not know your anticipated sources of revenues or expenses.

Example 4

Our letter dated January 24, 1996 requested a description of how funds would be provided to individuals and corporations and a description of your involvement in investments, financing, ventures, existing businesses and real estate. Your lctter dated February 3, 1996 did not provide a description of the activities but merely stated " All this depends on receiving grants as we cannot provide funds for individuals or corporations without it. Lets get one thing straight, without funds to operate a non profit corporation and without IRS approval, we cannot get involved in investments, financing, ventures, existing business and real estate."

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REASONS FOR PROPOSED DENIAL OF EXEMPT STATUS  
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Example 5

[REDACTED]  
[REDACTED]

Our letter dated January 24, 1996 requested a detailed description of your role as a fiduciary. You state in your letter dated February 3, 1996 that your role will be designating a person who will hold something in trust for another, we can withhold some of the money until they complete their work.

This response did not provide a detailed description of your role as a fiduciary. You did not explain the circumstances in which you would act as a fiduciary. Nor, did you explain why you would designate a person to hold something in trust or withhold money.

Example 6

We requested a detailed description of the activities you will conduct for research, educational, economic development, public relations, development leagues, etc. Your letter dated February 3, 1996 indicates "you will cooperate with professors from the [REDACTED] for research, educational and economic development, but they have their own agenda on these matters."

This did not explain how you will cooperate or the activities you will conduct for research, educational, economic development, public relations, development leagues, etc.

In addition, there were discrepancies noted in your application, responses, and bylaws pertaining to compensation, particularly that of your founders. Of particular note, the bylaws were handwritten with many sections blacked out. Any section of the bylaws we questioned were blacked out or revised in subsequent responses. The sections blacked out were not initialed by your officers nor were the revisions properly adopted by your governing body. The following illustrates this point:

Your letter dated February 6, 1996 indicates compensation will be determined by Price Waterhouse and that compensation will not include commissions, profit sharing, royalties, interest, share, percentage of ownership in such investment or funding. You referred to Restated Bylaws sent on January 26, 1996 in which you blacked out the provision for commissions, profit sharing, royalties, interest, share, etc.

Your Bylaws and information in your application indicates the President of your organization will receive compensation. The application is signed and other information is signed by [REDACTED] President. Your letter dated February 3, 1996 indicates that [REDACTED] will not receive compensation. You further state the President will be appointed by your Board of Governors. The Board of Governors has not been appointed.

[REDACTED]



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REASONS FOR PROPOSED DENIAL OF EXEMPT STATUS  
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[REDACTED]  
[REDACTED]

In addition, the relationship between your organization and [REDACTED] was questioned. The mere fact that the organization was formed and controlled by the owners of a for profit organization conducting similar activities may jeopardize exemption. Therefore, it was necessary to distinguish the activities of each organization. Your original Bylaws provided that [REDACTED] would act as a correspondent and conduct activities for [REDACTED]. This was later blacked out of your Bylaws. At this time it is unclear if there will be a clear separation of activities of [REDACTED] and [REDACTED].

A refusal to rule letter was issued March 1, 1996. [REDACTED] protested by letters dated April 30, 1996, May 15, 1996 and August 13, 1996. Typed Bylaws was submitted as well as Amended Articles of Incorporation. You stated in your letter dated August 13, 1996 the "main purpose is to provide loans so that depressed contractors can HAVE FUNDS to compete with larger contractors." Once again the information provided was vague. The letters did not provide any additional details pertaining to the operations of the organization.

We wish to call your attention to section 5.02 of Revenue Procedure 90-27, Cumulative Bulletin 1990-1, page 514, which reads in part, as follows:

"02. Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities; the anticipated sources of receipts; and the nature of contemplated expenditures.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax:

Organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states:

In order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

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[REDACTED]

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Rev. Rul. 69-266, 1969-1 C.B. 151 held that an organization formed and controlled by a medical doctor to conduct research programs consisting of examining and treating patients who are charged the prevailing fees for services rendered, is not exempt under section 501(c)(3) of the Code.

Rev. Rul. 61-87, 1961-1 C.B. 191 and 63-220, 1963-2 C.B. 208 held that making interest-bearing loans to students may be a charitable activity in some circumstances. The purpose of the loan must be for furthering the education of the student and the manner in which the loan program is administered must be distinguished from a commercial activity in order to qualify for exemption under section 501(c)(3) of the Code.

The information submitted, thus far, does not conclude that the organization will operate exclusively for one or more exempt purposes under section 501(c)(3) of the Code. The organization has not shown that it is operated exclusively for charitable, educational or religious purposes. We were unable to determine, based on the information submitted, if services will be provided for fees based on prevailing rates as in Rev. Rul. 69-266 or if loan programs may be distinguished from commercial activities as in Rev. Rul. 61-87 and 63-220. In addition, you have not demonstrated that public rather than private interests are served.

Accordingly, you do not qualify for exemption under section 501(c)(3) of the Code.

[REDACTED]



Department of the Treasury-Internal Revenue Service  
**Consent to Proposed Adverse Action**  
(All references are to the Internal Revenue Code)

Prepare In  
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

NOV 14 1986

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

**NATURE OF ADVERSE ACTION**

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)( ) to 501(c)( ), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)( ), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)( ), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date